

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of San Gabriel Water Company, Fontana District (U337W) for authority to increase rates charged for water service in its Fontana Water Company Division to increase revenues by: \$11,573,200 or 39.1% in 2003, \$3,078,400 or 7.3 % in 2004, \$3,078,400 or 6.8% in 2005, \$3,079,900 or 6.4 % in 2006.

Application No. 02-11-044
(Filed November 25, 2002)
(Rehearing)

A.05-08-021

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION ON LIMITED REHEARING OF
DECISION 04-07-034**

I. INTRODUCTION

Pursuant to Article 19 and Rule 77.3 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") hereby provides its comments on the Proposed Decision ("PD") on the Limited Rehearing of Decision ("D") 04-07-034.

DRA would like to first express its appreciation to Administrative Law Judge ("ALJ") Barnett for his thoroughness, efficiency, patience, and hard work throughout this complex proceeding. This proceeding has not only encompassed the rehearing of D.04-07-034, but also the current rate case, Application 05-08-021, and the Water Division's Audit ordered in D.04-07-034. This proceeding has been challenging, and DRA appreciates ALJ Barnett's efforts in affording all parties appropriate due process and an opportunity to be heard.

II. THE PD CORRECTLY FINDS THAT SAN GABRIEL VALLEY WATER COMPANY (“San Gabriel”) DID NOT MEET ITS BURDEN OF PROOF ON CERTAIN RATEMAKING ISSUES.

DRA agrees with the PD’s position that San Gabriel did not meet its burden of proof on certain ratemaking issues, specifically: (A) gains from (1) sales of real estate, (2) water contamination lawsuits and settlements, (3) condemnations, and (4) inverse condemnations; (B) contributions in aid of construction; and (C) the purchase price of land for a new office. The PD orders that the rates and charges authorized by D.04-07-034 are subject to refund. It further states that to the extent that financial gains were not the property of San Gabriel (and should have been allocated to ratepayers), but were invested in plant, those gains should be treated as contributions in aid of construction. Additionally, the PD states A.05-08-021 will determine the amount of any refunds and reductions to rate base.

DRA is happy to see that the PD proposes refunds under the rates and charges authorized in D.04-07-034 and its determination that financial gains not the property of San Gabriel, but were invested in plant, be treated as contributions in aid of construction.

III. THE PD’S SUMMARY DISCUSSION CONTRADICTS ITS SPECIFIC DISCUSSION ON THE BURDEN OF PROOF.

Despite its enthusiasm for most of the determinations made in the PD, DRA, is concerned about the Summary Discussion on Page 1 which contradicts specific findings in the PD’s burden of proof discussion. In the Summary, the PD states that the Commission granted a limited rehearing based on the existing record to determine if San Gabriel had met its burden of proof to support the rate increase. It then states that the decision affirms D.04-07-034. The PD states further that “Like D.04-07-034, it finds that, with certain exceptions, San Gabriel met its burden of proof regarding the rate increase and that San Gabriel’s proposed construction projects, including any changes or substitutions, are needed, reasonable, and justified;...” However, on Page 6 the PD: “We agree with DRA

that San Gabriel did not sustain its burden of proof regarding a 12.25% ROE- and we did not authorize it.”

DRA agrees with the PD’s assertion that San Gabriel did not sustain its burden of proof justifying a 12.25% ROE. Given the apparent contradiction between the Summary and burden of proof discussion, DRA, feels clarification on this issue is warranted to address whether San Gabriel met its burden of proof.

IV. DRA WAS UNAWARE THAT A REVIEW OF POST-2002 PROJECTS COVERED UNDER THE 10% RATE BASE CAP WAS INCLUDED IN A.05-08-021.

On Page 20 of the PD, it states:

...We need not authorize specific projects. The construction budget, and rate base, will get a third review in the current GRC, A.05-08-021. In that third review we will have the opportunity to determine the reasonableness of what actually has been constructed since 2002. To the extent that construction was unneeded it will be found to be unjustified and therefore unreasonable. Because current rates are subject to refund, any finding in A.05-08-021 will have the same effect and finding in this rehearing. The difference is palpable: rather than forecasting that a project is or is not necessary, we have the benefit of hindsight to review whether the project was, in fact, needed. This is the lesson of all rate cases which are based on a forecast year.

DRA was unaware that a review of post-2002 projects covered under the 10% rate base cap would be included in the current proceeding, A.05-08-021. The Scoping Memo dated October 20, 2005 did not state a review of post-2002 projects covered under the 10% rate base cap would be covered under this proceeding. If DRA had known about this issue being included earlier, it certainly would have reviewed these projects in question. DRA, however, only reviewed forecasted plant in the current case, which is the normal procedure in rate case applications. Thus, with this revelation in the PD that parties “had/have” the opportunity for a thorough review of post -2002 projects covered under the 10% rate base cap, DRA now would like to respectfully reserve its right to still be able to conduct this review of the projects.

The parties did not present evidence in this proceeding regarding these post-2002 projects. The Commission must provide DRA and the other parties the opportunity to conduct their review of these projects if the proposed decision in A.05-08-021 will address this issue. DRA suggests that the Commission reopen the evidentiary hearings to allow the parties to address whether the post-2002 projects were justified and reasonable.

V. CONCLUSION

DRA agrees with the PD's position that San Gabriel did not meet its burden of proof on certain ratemaking issues and is happy to see that the PD proposes refunds under the rates and charges authorized in D.04-07-034 and its determination that financial gains not the property of San Gabriel, but were invested in plant, be treated as contributions in aid of construction. Lastly, DRA would like to respectfully reserve its right to review post-2002 projects subject to the 10% rate base cap in the current proceeding, A.05-08-021.

Respectfully submitted,

/s/ SELINA SHEK

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June 5, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE PROPOSED DECISION ON LIMITED REHEARING OF DECISION 04-07-034** in **A.02-11-044** and **A.05-08-021** by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on June 5, 2006 at San Francisco, California.

/s/ ALBERT HILL

Albert Hill

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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